

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2006

TITLE OF PAPER : CRIMINAL LAW

COURSE CODE : DL 022

TIME ALLOWED : THREE (2) HOURS

INSTRUCTIONS :

- 1. QUESTION (1) COMPULSORY**
- 2. AFTER ANSWERING QUESTION ONE CHOOSE ANY OTHER TWO (2) NUMBER OF QUESTIONS ANSWERED TO THREE**
- 3. EACH QUESTION CARRIES A TOTAL OF (25 MARKS)**

THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR

QUESTION 1

Write short note son the following:

- a) The distinction between defamation and *Crimen injuria* (8 marks)
- b) The distinction between robbery and theft (5 marks)
- c) The social Function of the crime of High Treason in Swaziland (4 marks)
- d) The distinction between fraud and theft by false pretenses (8 marks)

QUESTION 2

Prepare indictments for the following offences

- a) Extortion (10 marks)
- b) Perjury (15marks)

QUESTION 3

Masiphula is a prosperous young businessman of Ngolotjeni aged 25 years. He is head over heels in love with Ntfonjana a female student of Ngolotjeni High School aged 16 years who is in Form 2.

Since Masiphula does not have a wife, he approaches Ntfonjana and proposes marriage to her. Ntfonjana tells him that although she would like to marry him, she fears that her father would beat her if he were to find out about their purported marriage. She advised Masiphula to approach her father about the issue. Masiphula however, gets carried away by the idea that Ntfonjana would like to be his wife and takes her his parental home to perform the "kuteka" custom.

Along the way to Masiphula's parental home the car they are traveling in overturns and both are seriously injured. Ntfonjana's father learns about the accident and purported marriage and is very angry with Masiphula. He wants to lay criminal charges against Masiphula but does not know which charge or charges will be more appropriate. He approaches you for advice.

Advise him fully about the charge or charges that can be brought against Masiphula. Use legal authorities to support your answer. (25 marks)

QUESTION 4

- a) X is going on holiday and without seeking consent, takes his uncle's car and portable radio with him, intending to give them back on his return.

Consider the criminal liability of X on a charge of theft of the radio and the car where;

- i. The radio breaks down and he leaves it behind in the beach cottage where he spent his holiday. (5 marks)
- ii. His uncle has, in the past, allowed him to use the car for weekend trips into the country (5 marks)

QUESTION 5

Dlamini was taking his evening stroll when he found Thwala, a boy aged 12, stealing his apples. Dlamini shouted at Thwala, but Thwala started running away. Dlamini then pulled out his pistol and fired at Thwala. The shot missed Thwala, it caught Thabo, who was returning home from his flock of sheep. The shot nipped off Thabo's right ear.

Thwala in the meantime, was so frightened that he ran blindly and fell into a hole and fractured eight ribs. His father removed him from the hole and took him to a famous with doctor.

There he was prayed for, for three days but the conditions were exceedingly sceptic. By the fourth day Thwala was no more. He had died of tetanus.

Meanwhile, Thabo had been rushed on foot to a nearby hospital, 10 kilometres away. Unfortunately, Thabo was anaemic. He was certified dead within an hour of his admission into the hospital.

Discuss all the legal problems arising.

(25 marks)